

**FLATHEAD COUNTY BOARD OF ADJUSTMENT  
MINUTES OF THE MEETING  
OCTOBER 4, 2011**

**CALL TO  
ORDER**

A meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. Board members present were Gina Klempel, Scott Hollinger, Gary Krueger and Terry Kramer. Mark Hash had an excused absence. Alex Hogle and BJ Grieve represented the Flathead County Planning & Zoning Office.

There were 14 people in the audience.

**APPROVAL OF  
MINUTES**

Klempel motioned and Kramer seconded to approve the September 6, 2011 minutes. The motion passed unanimously.

**PUBLIC  
COMMENT**  
*(not related to  
agenda items)*

None.

***Hollinger arrived at 6:06 pm***

**GROSSWILER  
DAIRY INC.**  
*(Appeal 11-01)*

An appeal by the West Valley Pines Homeowner's Association, Inc. of interpretations of the Flathead County Zoning Regulations made by the Zoning Administrator during the consideration and granting of a request by Tanner Marvin and Grosswiler Dairy, Inc. for an Administrative Conditional Use Permit (FACU-11-02) for a motocross race event held the weekend of July 16 and 17, 2011. The subject property on which the permit was granted is located at 1669 and 1775 West Valley Drive.

**STAFF REPORT**

Grieve reviewed Staff Report Appeal 11-01 for the Board.

**BOARD  
QUESTIONS**

The board briefly discussed if a recess was appropriate to read additional public comments submitted after packets had been sent to the board.

Hollinger said the board would hear the applicant presentation then take a 10 minute recess to read the comments.

**APPLICANT  
PRESENTATION**

Jim Thompson, president of West Valley Pine HOA, disagreed with the Flathead County Planning and Zoning Administrator and with several of the findings-of-fact in the staff report. The findings he had issue with concerned the temporariness of the motocross track, neighborhood impact concerning noise and the issue of notification. It was apparent the director interpreted the

regulations differently than he did.

***The board called a 10 minute recess.***

**BOARD  
QUESTIONS**

None.

**PUBLIC  
COMMENT**

Tanner Marvin, 1775 West Valley Drive, was generally against the appeal.

Tom Jennings, 115 Drumlin Way, was generally for the appeal.

Nick Theil, 116 East Bluegrass, was generally for the appeal.

Kade Marvin, 290 West Valley Acres, was generally against the appeal.

Marla Landcaster, was generally for the appeal.

Jeanne Olson, 160 West Valley Acres, was generally for the appeal.

Dan Olson, 160 West Valley Acres, was generally for the appeal.

**APPLICANT  
REBUTTAL**

Thompson said the motocross track under discussion was not the only track in the valley, there was another one in Hungry Horse on public land. He felt that was where motocross tracks should be. He was unsure if the track under discussion discriminated between younger and older, more experienced riders.

**STAFF  
REBUTTAL**

Grieve said a lot of the public comment was revolving around motocross track. The office had dealt with issues similar to the motocross track concerning noise. He went on to elaborate and gave examples which included the use of guns on private property and paintball courses. The act of having a track on their private property was not a violation of the personal use of property. He elaborated at length the history of the property and the issue at hand.

**BOARD  
DISCUSSION**

The board and Grieve discussed how Rebecca Farms held their events, what had been involved and who determined their ability to hold the events. They also discussed the zoning of the Hungry Horse race track, firework shows, weddings, air shows, balloon events, Mack Days fishing event, bass fishing derbies and how

all of these events were activity not structure based.

Krueger and Grieve discussed how Grieve felt about multiple days for an event or more than one event during the one year duration.

Kramer and Grieve discussed if the trigger for the review was the commercial aspect of the event.

Hollinger and Grieve discussed weddings and if they qualified for a temporary use under the administrative review.

Kramer and Grieve discussed if neighborhood impacts were considered from the public comment received from neighbors farther from 150 feet.

Klempel felt any ambiguity in the zoning regulations were not the fault of the administrator, his job was to make the call on the gray areas, and she believed he made the correct call on temporary uses and the use of the 150' distance for notification. She asked how many acres there were in West Valley.

Grieve did not know off the top of his head.

Krueger said he felt there should be a finding of fact stating it was the duty of the administrator to determine class of use.

The board and Grieve discussed where that determination of duty could be referenced in the findings.

**MAIN MOTION  
TO ADOPT  
F.O.F  
(Appeal 11-01)**

Krueger made a motion seconded by Kramer to adopt staff report Appeal 11-01 as findings-of-fact.

**BOARD  
DISCUSSION**

Grieve clarified process.

**SECONDARY  
MOTION TO  
AMEND F.O.F  
#1**

Krueger made a motion seconded by Klempel to amend finding-of-fact #1 to read:

**Finding #1:**

The Zoning Administrator did not err in the interpretation of the regulations regarding “temporary *buildings or structures*” being administratively similar to “temporary *uses*” because the zoning

regulations list “temporary building or structures” as a conditional use in most zones and it is reasonable to conclude that the conditional use standard found in Chapter 4 of the zoning regulations for “temporary uses” is the correct corresponding standard, and would include all temporary uses less than 12 months in duration, including those that do not necessarily have buildings or structures. *Furthermore we find that the review was conducted per 3.03.030 of the Flathead County Zoning Regulations.*

**BOARD  
DISCUSSION**

None.

**ROLL CALL TO  
AMEND F.O.F  
#1**

On a roll call vote the motion passed unanimously.

**BOARD  
DISCUSSION**

None.

**ROLL CALL TO  
ADOPT F.O.F.  
(Appeal 11-01)**

On a roll call vote the motion passed unanimously.

**BOARD  
DISCUSSION**

Grieve further clarified process.

**MAIN MOTION  
TO DENY  
(Appeal 11-01)**

Krueger made a motion seconded by Klempel to deny Appeal 11-01.

**BOARD  
DISCUSSION**

None.

**ROLL CALL  
VOTE TO DENY  
(Appeal 11-01)**

On a roll call vote the motion passed unanimously.

**BOARD  
DISCUSSION**

Grieve explained the process which would be involved if the appellant chose to appeal the decision.

**OLD BUSINESS**

None.

**NEW BUSINESS**

Donna Valade, board secretary, reviewed what was on the meeting docket for November.

**ADJOURNMENT** The meeting was adjourned at approximately 7:35 pm. on a motion by Klempel. The next meeting will be held at 6:00 p.m. on November 1, 2011.

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Scott Hollinger, Chairman

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Donna Valade, Recording Secretary

*APPROVED AS **SUBMITTED**/CORRECTED: 11 / 1 / 11*